

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

PEGGY JOYCE EDWARDS, as substitute)	
party in interest for)	
LARRY M. EDWARDS, deceased,)	
)	
)	
Plaintiff,)	
vs.)	NO. CIV-05-1356-HE
)	
JO ANNE B. BARNHART,)	
Commissioner, Social Security,)	
Administration,)	
)	
Defendant.)	

ORDER

Plaintiff Peggy Joyce Edwards instituted this action pursuant to 42 U.S.C. §405(g), seeking judicial review of the defendant Commissioner's final decision denying her now-deceased husband's application for disability insurance benefits. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Doyle W. Argo, who has recommended that the Commissioner's decision be affirmed.

Mr. Edwards filed an application for disability insurance benefits in April, 2003, and, when it was denied initially and on reconsideration, he requested a hearing before an Administrative Law Judge ("ALJ"). After a hearing at which the plaintiff appeared with counsel and, along with a vocational expert, testified, the ALJ concluded the decedent was not entitled to benefits.¹ The Appeals Council denied the plaintiff's request for review, making the ALJ's decision the final decision of the Commissioner.

¹*Mr. Edwards died after the hearing, but before the ALJ issued her decision.*

By her general adoption of her prior briefs,² her assertion that the ALJ's residual functional capacity ("RFC") assessment lacked sufficient evidentiary support, and her brief discussion of the plaintiff's daily activities and his work history, the plaintiff appears in her objection to challenge both the ALJ's credibility analysis and her Step Five analysis.³ These are essentially the issues thoroughly considered and addressed by the Magistrate Judge in his Report and Recommendation.


Having considered the plaintiff's objections and having conducted a de novo review, the court concurs with the magistrate judge that the ALJ did not err in her credibility analysis and that her RFC determination was supported by substantial evidence. Accordingly, the court adopts Magistrate Judge Argo's Report and Recommendation and **AFFIRMS** the decision of the Commissioner.

²*The plaintiff's attempt to incorporate the arguments contained in her opening and reply briefs is ineffective. See Fed.R.Civ.P. 72; United States v. 2121 E. 30th St., 73 F.3d 1057, 1060 (10th Cir. 1996) ("[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.").*

³*It is questionable whether, by her lack of reference to the Report and Recommendation, the plaintiff has waived further review of the issues the magistrate judge addressed. See supra note 2.*

IT IS SO ORDERED.

Dated this 27th day of June, 2006.



JOE HEATON
UNITED STATES DISTRICT JUDGE